

Section 13 of the Motor Fuel Tax Law, 35 ILCS 505/13 (1998 State Bar Edition), provides, in part, that no claim based upon the use of undyed diesel fuel shall be allowed except for undyed diesel fuel used by a commercial vehicle, as that term is defined in Section 1-111.8 of the Illinois Vehicle Code, for any purpose other than operating the commercial vehicle upon the public highways and unlicensed commercial vehicles operating on private property. Claims shall be limited to commercial vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways. See 86 Ill. Adm. Code 500.235. (This is a GIL.)

February 22, 2001

Dear Xxxxx:

This letter is in response to your letter to Thomas Crouch dated December 1, 2000. Your letter was forwarded to this office for a response. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's Web site at [www.revenue.state.il.us/legalinformation/regs/part1200](http://www.revenue.state.il.us/legalinformation/regs/part1200).

In your letter, you have stated and made inquiry as follows:

On behalf of the water well drillers in Illinois, the NAME is petitioning for re-instatement on the list of identified vehicles and uses subject to reimbursement of the Illinois state tax on motor fuel when used off-highway.

Water well drill rigs under Illinois Vehicle Code Section 3-809 are registered as farm machinery. In addition, these vehicles under the Section 13-101 are considered 'special mobile equipment' and categorized with ditch digging apparatus, road construction and maintenance machinery as vehicles not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway.

According to the identified uses contained in the Administrative Code Section 500.235 Claims for Refund -- Invoices, construction equipment for a wide variety of purposes are exempt, none of which are any more important to sustaining life and the well being of Illinois citizens than equipment for the construction or maintenance of potable water.

Fuel consumption in drilling a well is typically a minimum of 100 gallons per day.

Because until this year, water well rigs were included in the list of vehicles that could claim a tax refund, the current exclusion of water well rigs is most likely unintentional. Your prompt attention and correction of this matter is requested.

Please contact me immediately if you need additional information.

Section 13 of the Motor Fuel Tax Law, 35 ILCS 505/13 (1998 State Bar Edition), provides, in part, that no claim based upon the use of undyed diesel fuel shall be allowed except for undyed diesel fuel used by a commercial vehicle, as that term is defined in Section 1-111.8 of the Illinois Vehicle Code, for any purpose other than operating the commercial vehicle upon the public highways and unlicensed commercial vehicles operating on private property. Claims shall be limited to commercial vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways. See 86 Ill. Adm. Code 500.235. "Commercial vehicle" is defined as any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, For-Hire or Not-For-Hire, but not including a commuter van, a vehicle used in a ridesharing arrangement when being used for that purpose, or a recreational vehicle not being used commercially. 625 ILCS 5/1-111.8 (1998 State Bar Edition).

The provisions of 86 Ill. Adm. Code 500.235 include a table that contains the uses of undyed diesel fuel subject to refund and the maximum amounts of undyed diesel fuel that may be claimed for refund by commercial vehicles operating in a dual capacity. A claimant who has a commercial vehicle that is operated for both highway purposes and any purposes other than operating such vehicles upon the public highways that is not included in the table must submit a specific study that has been conducted by such claimant and approved by the Department prior to submission of the claim. See subsection (i) of Section 500.235. Items such as water well drill rigs appear to be "commercial vehicles." Claims for undyed diesel fuel used in commercial vehicles are subject to the provisions found in Section 500.235. Since the use of undyed diesel fuel in such commercial vehicles is not identified in subsection (i) of Section 500.235, the Department requires that claimants conduct a study and submit it for approval prior to submission of the claim.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Gina Roccaforte  
Associate Counsel

GR:msk  
Enc.